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COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 55th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 4 March 1994, at 10 a.m.

Chairman: Mr. van WULFFTEN PALTHE (Netherlands)

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Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-fifth session (continued)

Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular:

(a) Torture and other cruel, inhuman or degrading treatment or punishment;

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Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.94-12196 (E)

CONTENTS (continued)

(b) Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(c) Question of enforced or involuntary disappearances;

(d) Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (continued)

The meeting was called to order at 10.20 a.m.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-FIFTH SESSION (agenda item 17) (continued) (E/CN.4/1994/L.32-L.38 and L.41; E/CN.4/1994/2, chapter I, section B, draft decisions 1, 2, 4, 6, 8, 11, 13 and 14)

Draft resolution on the work of the Sub-Commission on Discrimination and Protection of Minorities (E/CN.4/1994/L.32)

1. Mr. MUCH (Germany), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Austria, Finland, the United Kingdom of Great Britain and Northern Ireland and the United States of America and the observers for Belgium, Greece, Portugal, Senegal and Spain, said that it welcomed the initiative of the Sub-Commission to request information about emergency situations, reaffirmed that the Sub-Commission could best assist the Commission by providing it with recommendations based on the different views and perspectives of independent experts and requested the Sub-Commission to pay attention to the guidelines concerning the number of studies and to establish priorities relating to its work. That was simply a pragmatic response to the Sub-Commission's growing workload.

2. The Sub-Commission deserved the Commission's support in the coming years, and his delegation hoped that the draft resolution would be adopted by consensus.

3. Mr. LEBAKINE (Acting Secretary of the Commission) said that the resolution was considered to be within the scope of perennial activities. Resources would, therefore, be provided from within existing provisions for the Economic and Social Council mandates under section 21 (Human Rights) of the approved programme budget for the biennium 1994-1995.

4. Draft resolution E/CN.4/1994/L.32 was adopted.

Draft resolution on the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery (E/CN.4/1994/L.34)

5. Mr. van REENEN (Netherlands), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegation of Nigeria, said that its text built upon the language adopted by the Commission at its forty-ninth session and added a new paragraph to reflect the current alarming financial situation of the Fund. It was to be hoped that the draft resolution would be adopted without a vote.

6. Draft resolution E/CN.4/1994/L.34 was adopted.

Draft resolution on the report of the Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1994/L.35)

7. Mr. van REENEN (Netherlands), introducing the draft resolution on behalf of its sponsors, drew the Commission's attention to the paragraphs dealing with the Sub-Commission's recommendation that the Commission create for a

period of three years a working group on contemporary forms of slavery. The sponsors considered that Sub-Commission resolution 1993/7 had not elaborated on the issue as to whether a new working group on contemporary forms of slavery under the auspices of the Commission would prove an effective mechanism for the implementation of the Conventions on slavery. In addition, the desirability of establishing such a working group must be assessed in the light of a number of considerations spelt out in the eighth preambular paragraph which, in the sponsors' view, had not been taken into account by the Sub-Commission when adopting resolution 1993/7.

8. Consequently, the draft resolution invited the Sub-Commission to clarify its position, to review its resolution 1993/7 in the light of the current mandate of the existing Working Group on Contemporary Forms of Slavery, of the need for avoiding duplication of efforts, and of other possible options for establishing an effective mechanism for the implementation of the Conventions on slavery, and to submit to the Commission at its fifty-first session its recommendation(s) for establishing such a mechanism, to consider strengthening its involvement in the activities of the existing Working Group on Contemporary Forms of Slavery as an alternative to establishing a new mechanism and to consider the possibility of giving guidelines to the Working Group for setting priorities in the field of its activities.

9. It was to be hoped that the draft resolution would be adopted without a vote. Essentially, all it did was refer the matter back to the Sub-Commission for reconsideration.

10. Mr. LEBAKINE (Acting Secretary of the Commission) said that the observer for Portugal had been mistakenly included in the list of sponsors and should be deleted; while the delegations of Nigeria and the United Kingdom of Great Britain and Northern Ireland and the observers for Belgium, Greece and Latvia had become sponsors.

11. Draft resolution E/CN.4/1994/L.35 was adopted.

Draft resolution on the International Decade of the World's Indigenous People (E/CN.4/1994/L.36)

12. Mr. WILLIS (Australia), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegation of Nigeria and the observer for Slovakia, said that it was a follow-up to the proclamation by the General Assembly of the International Decade which was to begin on 10 December 1994. The interim period was to be devoted to planning for the Decade in partnership with the indigenous peoples and the draft resolution emphasized the importance of coordinated planning to ensure the success of the Decade, making some constructive suggestions to that effect.

13. He drew attention to an error in operative paragraph 18, line 4, of the English text. The words "of staff" should be inserted after "placement" and the words "to the unit" should be changed to read "in the unit".

14. Draft resolution E/CN.4/1994/L.36, as orally corrected, was adopted.

Draft resolution on human rights and disability (E/CN.4/1994/L.37)

15. Mr. MARANTZ (Canada), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Australia, Costa Rica, Cyprus, Germany, the Islamic Republic of Iran, Japan, the Libyan Arab Jamahiriya, Nigeria and the United Kingdom of Great Britain and Northern Ireland and the observers for the Czech Republic, El Salvador, Greece, Ireland, Philippines, Sweden and Turkey, said that a new preambular paragraph should be inserted between the existing third and fourth preambular paragraphs to read: "Noting also the Centre for Human Rights publication 'Study Series 6 - Human Rights and Disabled Persons', of the Despouy Report, in which the establishment of a mechanism such as an international ombudsman is proposed". He hoped that the draft resolution would be adopted without a vote.

16. Draft resolution E/CN.4/1994/L.37, as orally revised, was adopted.

Draft resolution on a permanent forum in the United Nations for indigenous people (E/CN.4/1994/L.38)

17. Mr. LARSEN (Observer for Denmark), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Canada, Ecuador and Nigeria, said that the text was a procedural follow-up to the decisions taken by the World Conference on Human Rights and at the forty-eighth session of the General Assembly regarding the establishment of a permanent forum for indigenous people within the United Nations system. The draft resolution was submitted in order to create the best possible basis for further deliberations on the issue at the Commission's next session.

18. Following intensive consultations, the sponsors had decided to insert a new paragraph between the first and second preambular paragraphs to read: "Bearing in mind articles 55 and 56 of the United Nations Charter in the context of all human rights of the indigenous people". He hoped that the draft resolution would be adopted without a vote.

19. Draft resolution E/CN.4/1994/L.38, as orally revised, was adopted.

20. The CHAIRMAN said that, as a result of the adoption of draft resolution E/CN.4/1994/L.38, draft decision 12, recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, was superseded.

Draft resolution on the report of the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1994/L.41)

21. Mr. MARANTZ (Canada), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Cyprus and Nigeria and the observers for Greece and Slovakia, said that it superseded Sub-Commission resolution 1993/45. The necessary resources and assistance requested of the Secretary-General in operative paragraph 9 were to be drawn from the regular budget of the United Nations. He hoped that the draft resolution would be adopted without a vote.

22. Draft resolution E/CN.4/1994/L.41 was adopted.

Draft decision on enhancing the work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1994/L.33)

23. Mr. WEISSBRODT (United States of America), introducing the draft decision on behalf of its sponsors, which had been joined by the delegation of Cyprus, said that a change had been made just before the draft decision had been submitted for printing, and it had not been possible to consult with the many delegations who had seen only the earlier versions. In line 7 of the English text, the words "or premature" had been inserted after the word "unnecessary". He hoped that that would be acceptable to all the sponsors.

24. The draft decision expressed concern that the Sub-Commission had taken on so many studies that it was experiencing difficulty in carrying out its primary objectives. Many significant studies, such as those on compensation and minorities, were not receiving the attention they deserved.

25. Notwithstanding its current overload, the Sub-Commission had sought approval to initiate five new studies. That would exceed the limit of 13 studies that the Sub-Commission had promised to maintain in its 1992 guidelines. In fact, the Sub-Commission had listed 19 studies and similar projects in its report to the Commission at its current session.

26. The draft decision responded to that problem by asking the Sub-Commission to reconsider the new studies in the light of its own priorities and capabilities. It did not favour one study over another, and it would affect Sub-Commission members from several countries, including his own. Consultations had been held with all the countries whose nationals were affected; none of them had objected and some had even joined the sponsors.

27. The draft decision was not an attack on the Sub-Commission's independence or that of its members; indeed, it expressly recognized that independence. Its purpose was to help the Sub-Commission improve its work by giving it the time it needed to deliberate fully on the studies it undertook. By adopting a neutral approach to new studies, the Commission would enable the Sub-Commission to establish its own priorities. It would not cancel the new studies and would permit the members of the Sub-Commission to continue preparing working papers without financial implications.

28. Since the draft decision had been prepared following wide consultations with members of the Commission from every region, he hoped that it would be adopted by consensus.

29. Mr. MORA GODOY (Cuba) said that he would appreciate some clarification from the representative of the United States regarding the purpose of the draft decision.

30. Mr. KHOURY (Syrian Arab Republic) said that one of the Sub-Commission's main functions was to carry out studies. The results of such studies were not binding. The Commission could merely take note of them; it did not necessarily have to adopt them.

31. Some delegations might prefer the Sub-Commission not to make studies that had political implications. However, there was no reason whatsoever to oppose the making of studies that were without such implications and did not require the establishment of new machinery. Consequently, his delegation was unable to support the draft decision.

32. Mr. WEISSBRODT (United States of America) said that the purpose of the draft decision was to help the Sub-Commission deal with its work overload and abide by the guidelines it had adopted in 1992 limiting the number of studies to be undertaken. The Sub-Commission had had, and continued to have, difficulty in meeting its obligations owing to an excessive workload.

33. The draft decision was neutral; it did not favour one study over another and its purpose was certainly not to eliminate any studies. It simply asked the Sub-Commission to rethink its priorities.

34. Mr. CHAKRAVARTI (India) said that, in his introductory statement, the representative of the United States had explicitly stated that the studies in question would be treated in a neutral manner, without favouring one over the other. Such neutrality should be maintained. Consideration of studies in the future should not be based on arbitrary priorities.

35. Mr. MORA GODOY (Cuba), speaking in explanation of vote before the voting, said that his delegation would have preferred that the Commission adopt the Sub-Commission's decisions relating to the five new studies, on the basis of the principle of non-selectivity. By adopting draft decision E/CN.4/1994/L.33, the Commission would, in effect, be failing to endorse the new studies, which included a study on contemporary forms of slavery; a study on slavery and slavery-like practices during wartime, and, most important of all, a study on the privatization of prisons.

36. He wished, in particular, to draw attention to the precedent that would be created by adopting the draft decision under consideration. Although it would not insist on a vote, his delegation had strong reservations about the draft decision.

37. Mr. HELLER (Mexico) said that his delegation fully endorsed the draft decision, which guaranteed the independence of the Sub-Commission. Its purpose was not to eliminate studies, but to rationalize the Sub-Commission's work.

38. Mr. Chang Hoon KIM (Republic of Korea) said that his delegation endorsed the draft decision since it would help the Sub-Commission to improve its methods of work. Adoption of the draft decision did not prejudge the importance or rank of the studies concerned. Nevertheless, it was concerned lest the adoption of the draft decision might be interpreted as calling the stability and the independence of the Sub-Commission into question.

39. Draft decision E/CN.4/1994/L.33 was adopted without a vote.

40. The CHAIRMAN said that, as a result of the adoption of draft decision E/CN.4/1994/L.33, draft decisions 1, 2, 4, 8 and 13, recommended by the Sub-Commission, were superseded. The adoption of draft resolution E/CN.4/1994/L.35 meant that draft resolution I, recommended by the Sub-Commission, was superseded.

Draft decision on traditional practices affecting the health of women and children (E/CN.4/1994/2, chapter I, section B, draft decision 6)

41. Draft decision 6 was adopted without a vote.

Draft decision on cultural and intellectual property of indigenous peoples (E/CN.4/1994/2, chapter I, section B, draft decision 11)

42. Mr. VERGNE SABOIA (Brazil), supported by Mr. CHARAVARTI (India), said that the wording of the draft decision should be modified so as to conform to the language used by the General Assembly, the World Conference on Human Rights and the Commission itself. He suggested, therefore, that all references to "indigenous peoples" should be amended to "indigenous people".

43. Mr. WILLIS (Australia) said that his delegation would prefer to retain the expression "indigenous peoples".

44. The Brazilian amendment to draft decision 11 was adopted.

45. Draft decision 11, as orally amended, was adopted without a vote.

Draft decision on the study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/1994/2, chapter I, section B, draft decision 14)

46. Draft decision 14 was adopted without a vote.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(agenda item 10) (continued) (E/CN.4/1994/L.29, L.31, L.42-53, and L.54/Rev.1; E/CN.4/1994/2, chapter I, section A, draft resolutions II, V and VI; chapter I, section B, draft decisions 3, 4 and 13)

Draft resolution on assistance in the field of the administration of justice and human rights (E/CN.4/1994/L.31)

47. Ms. KOSGEI (Kenya), introducing the draft resolution on behalf of its sponsors, said that the administration of justice was central to the protection and promotion of human rights. When the administration of justice was hampered by the lack or inadequacy of human, material or financial resources, the enjoyment of human rights was gravely affected.

48. The draft resolution thus called upon Governments, the international community and the Centre for Human Rights to consider increasing the material, financial and human resources they provided to developing countries with a view to enhancing and strengthening the administration of justice in order to protect and promote the full enjoyment of human rights. While requesting such assistance, the resolution acknowledged that it was the primary responsibility of all Governments to protect and promote human rights.

49. The draft resolution was very similar to resolution 1993/32, which the Commission had adopted by consensus. She hoped it would do the same with the current draft resolution.

50. Draft resolution E/CN.4/1994/L.31 was adopted.

Draft resolution on human rights and forensic science (E/CN.4/1994/L.43)

51. Mr. PACE (Secretary of the Commission) said that the resolution was considered to be within the scope of perennial activities. Resources would, therefore, be provided from within existing provisions for the Economic and Social Council mandates under section 21 (Human Rights) of the approved programme budget for the 1994-1995 biennium.

52. Mr. MALGINOV (Russian Federation), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of France, Germany, and the United States of America, and the observers for the Czech Republic, Greece and Latvia, said that he appreciated the suggestions of the many delegations that had participated in consultations. In 1992, the Commission had requested the Secretary-General to compile a list of forensic-science experts who might provide advice or assistance to various fact-finding bodies; in the current draft resolution, the Commission was making the same request in order to expand that list.

53. In the thirteenth preambular paragraph, the words "Commission of Experts established pursuant to Security Council resolution 780 (1992) of 6 October 1992 and other" should be deleted. He hoped that the draft resolution, which was similar to that adopted by consensus in 1993, could be adopted without a vote.

54. Draft resolution E/CN.4/1994/L.43, as orally revised, was adopted.

Draft resolution on the question of arbitrary detention (E/CN.4/1994/L.44)

55. Mr. DAUFRESNE de la CHEVALERIE (France), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Cuba, Guinea-Bissau, Netherlands, Poland, Russian Federation, Tunisia, United Kingdom of Great Britain and Northern Ireland and United States of America and the observers for Latvia, Madagascar and the Philippines, noted that the Working Group on Arbitrary Detention had been established three years previously. The creation of a new mechanism was always an important moment and it was thus with particular interest that he was submitting the draft resolution that renewed the Group's mandate. During its first mandate, the five experts had elaborated their working methods and given special attention to cooperation with all those affected by the cases submitted for its consideration. He was sure that they would continue that dialogue approach.

56. Drawing attention to some changes the sponsors had made in the draft resolution at the request of delegations, he said that, in the fourth and fifth lines of operative paragraph 1, the text should read "the importance that it attaches to respect for the procedures it has established for its dialogue with States". Secondly, the order of operative paragraphs 5 and 6 should be reversed. Operative paragraph 5 (former 6) would then read "Takes note in this context of the importance that the Working Group ...". In operative paragraph 16, the words "or a similar procedure" should be inserted after the words "Habeas corpus" in the second line. At the end of operative paragraph 19, the words "within the framework of its mandate" should be added.

57. Mr. LEBAKINE (Acting Secretary of the Commission) said that the resolution was considered to be within the scope of perennial activities. Resources would, therefore, be provided from within existing provisions for the Economic and Social Council mandates under section 21 (Human Rights) of the approved programme budget for the biennium 1994-1995.

58. Draft resolution E/CN.4/1994/L.44, as orally revised, was adopted.

Draft resolution on the right to freedom of opinion and expression (E/CN.4/1994/L.46)

59. Ms. BUCK (Canada), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Bulgaria, the United Kingdom of Great Britain and Northern Ireland and the United States of America and the observers for Latvia, Liechtenstein and Slovakia, said that it welcomed the first report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, who had been appointed at the Commission's previous session.

60. Following consultations with several delegations and among the sponsors, it had been decided that operative paragraph 10 should be replaced by the following text:

> "Concerned at the number of cases of arbitrary detention ordered following the exercise of the rights protected by article 19 of the

International Covenant on Civil and Political Rights concerning the right to freedom of opinion and expression, as noted in the third report of the Working Group on Arbitrary Detention;"

61. Mr. LEBAKINE (Acting Secretary of the Commission) said that the resolution was considered to be within the scope of perennial activities. Resources would, therefore, be provided from within existing provisions for the Economic and Social Council mandates under section 21 (Human Rights) of the approved programme budget for the biennium 1994-1995.

62. Draft resolution E/CN.4/1994/L.46, as orally revised, was adopted.

Draft resolution on human rights in the administration of justice (E/CN.4/1994/L.48)

63. Ms. KOFLER (Austria), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Canada, Cyprus and France and the observers for Belgium, Latvia, New Zealand and Sweden, said that it dealt with the question of the administration of justice in the light of the results of the World Conference on Human Rights. Its sponsors looked forward to working closely with the delegation of Kenya and the other sponsors of resolution E/CN.4/1994/L.31 at the Commission's fifty-first session.

64. Draft resolution E/CN.4/1994/L.48 was adopted.

Draft resolution on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms (E/CN.4/1994/L.50)

65. Mr. GARRETON (Chile), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Austria, Cyprus, Cuba and the United Kingdom of Great Britain and Northern Ireland and the observers for Belgium, Democratic People's Republic of Korea, Latvia, Norway, Philippines, Portugal and Sweden, said that the victims of a violation of human rights committed by the State which should protect them had to be compensated when that State failed in its function as a protector and became a transgressor.

66. It was a well-known fact that Governments frequently presented their victims as terrorists or delinquents and the agent who had committed the violation as a hero in the service of his country. The policy of rehabilitation should begin to establish the truth and restore the victim's dignity.

67. In the opinion of the sponsors of the draft resolution, the Sub-Commission should examine the principles proposed in the expert's report with a view to formulating recommendations to the Commission on its implementation.

68. Draft resolution E/CN.4/1994/L.50 was adopted.

Draft decision on the right to a fair trial (E/CN.4/1994/L.51)

69. Mr. ENDO (Japan), introducing the draft decision on behalf of its sponsors, which had been joined by the delegation of Germany, said that it expressed the Commission's appreciation to the Sub-Commission's Special Rapporteurs for their work and endorsed the Sub-Commission's request to them to continue their study, taking into account the comments made in the discussion of their preparatory, preliminary and progress reports. The Commission would decide to consider, at its fifty-first session, the final report of the Special Rapporteurs including, if appropriate, the desirability of a third optional protocol to the International Covenant on Civil and Political Rights.

70. Mr. LEBAKINE (Acting Secretary of the Commission) said that the decision was considered to be within the scope of perennial activities. Resources would, therefore, be provided from within existing provisions for the Economic and Social Council mandates under section 21 (Human Rights) of the approved programme budget for the biennium 1994-1995.

71. Mr. KHOURY (Syrian Arab Republic) said that the draft decision seemed to be pre-empting the Commission's judgement as to whether or not a third optional protocol should be adopted. Instructions were being given to the Special Rapporteurs who might or might not deem a third protocol to be desirable.

72. Draft decision E/CN.4/1994/L.51 was adopted.

Draft resolution on the United Nations Voluntary Fund for Victims of Torture (E/CN.4/1994/L.47)

73. Mr. KORHONEN (Finland), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Germany, Japan, Nigeria and Tunisia and the observers for Belgium, Greece, Luxembourg, Senegal and Spain, said that the text was self-explanatory. He stressed the need for Governments to contribute to the Fund on a regular basis so that it could provide assistance to the victims of torture and their families.

74. Draft resolution E/CN.4/1994/L.47 was adopted.

Draft resolution on torture and other cruel, inhuman or degrading treatment or punishment (E/CN.4/1994/L.54/Rev.1)

75. Mr. VAN CRAEN (Observer for Belgium), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Cameroon, Cyprus, Poland and the United States of America and the observers for the Czech Republic and Malta, said that torture was one of the most serious violations of human rights and should therefore be the subject of universal condemnation. He recalled that the World Conference on Human Rights had urged all States to put an immediate end to the practice of torture and eradicate that evil forever and had called on all States to cooperate fully with the Special Rapporteur on the question of torture in the fulfilment of his mandate.

76. In that spirit, the sponsors of the draft resolution attached special importance to the work of the Special Rapporteur on the question of torture, which was aimed at establishing an open dialogue so as to help the Governments concerned to take the necessary measures to end those degrading acts.

77. As compared with the text adopted the previous year, an additional paragraph had been included inviting the Special Rapporteur to examine questions concerning torture directed primarily against women. The text also stressed the importance of the role played by advisory services and technical assistance.

78. Draft resolution E/CN.4/1994/L.54/Rev.1 was adopted.

Draft resolution on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1994/L.49)

79. Mr. HALINEN (Finland), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Côte d'Ivoire, Germany, Guinea-Bissau and Mexico and the observers for Greece, Luxembourg and Panama, said that it urged all States to become parties to the Convention as a matter of priority. The sponsors hoped that it could be adopted without a vote.

80. Mr. LEBAKINE (Acting Secretary of the Commission) said that the resolution was considered to be within the scope of perennial activities. Resources would, therefore, be provided from within existing provisions for the Economic and Social Council mandates under section 21 (Human Rights) of the approved programme budget for the biennium 1994-1995.

81. Draft resolution E/CN.4/1994/L.49 was adopted.

Draft resolution on the problem of missing persons in the territory of the former Yugoslavia (E/CN.4/1994/L.29)

82. The CHAIRMAN said that the draft resolution in question was sponsored by an observer delegation. In accordance with rule 69, paragraph 3, of the rules of procedure, unless a member of the Commission requested that the draft resolution be put to the vote, the Commission would take no action on it. Since no member of the Commission had commented on the subject, he assumed that the Commission wished to take no action on draft resolution E/CN.4/1994/L.29.

83. It was so decided.

Draft resolution on the question of enforced disappearances (E/CN.4/1994/L.45)

84. Mr. DAUFRESNE de la CHEVALERIE (France), introducing the draft resolution on behalf of its sponsors, said that the new title was intended to evoke the very important Declaration on the Protection of All Persons from Enforced Disappearance. The report of the five experts comprising the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1994/26) showed that acts of enforced disappearance had persisted in 1993. It also analysed the causes and

modalities of that form of organized repression. The draft resolution embodied the experts' concern about the growing climate of impunity which led directly to an increase in enforced disappearances.

85. The sponsors had made a number of changes to the draft resolution. The sixth preambular paragraph should read "Noting that, according to the Working Group, the practice of a number of States runs counter to the provisions of the Declaration". The penultimate preambular paragraph should read, after "Working Group": "and noting with satisfaction the compilation by the Secretary-General of a preliminary list of experts in this field". The word "concerned" should be deleted from operative paragraphs 11 and 12. In operative paragraph 17, the words "pursuant to its mandate" should be replaced by "in exercise of its mandate". The phrase "to assess the practice of States in the light of the Declaration" should be deleted from operative paragraph 18. In operative paragraph 21, the words "or a similar procedure" should be inserted after the words "habeas corpus". Lastly, in operative paragraph 23, the word "Endorses" should be replaced by "Noting with interest".

86. Mr. LEBAKINE (Acting Secretary of the Commission) said that the delegations of Canada, Cyprus, Guinea-Bissau, the Netherlands and the United Kingdom of Great Britain and Northern Ireland and the observers for the Czech Republic, Latvia, Luxembourg, Madagascar and Portugal, had become sponsors of the draft resolution.

87. Mr. VERGNE SABOIA (Brazil) said he would like clarification of the bracketed portion of operative paragraph 14 of the English text.

88. Mr. DAUFRESNE de la CHEVALERIE (France) said that the words "in all circumstances" were not bracketed in the French original and that the brackets should be removed in the English version.

89. Draft resolution E/CN.4/1994/L.45, as orally revised, was adopted.

Draft resolution on the question of a draft optional protocol to the Convention against Torture and Other, Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1994/L.52)

90. Mr. RODRIGUEZ ALPIZAR (Costa Rica), introducing the draft resolution on behalf of its sponsors, said that it recalled Commission resolution 1992/43 establishing an open-ended working group to elaborate a draft optional protocol and resolution 1993/34 requesting the working group to meet for a period of two weeks prior to the Commission's fiftieth session. The working group's meeting had been very well attended and it had made significant progress. However, since it had not been able to consider all the documents before it, the draft resolution requested it to meet again for two weeks prior to the Commission's fifty-first session (operative para. 2). The sponsors hoped that, as in the previous year, the draft resolution would be adopted without a vote.

91. Mr. LEBAKINE (Acting Secretary of the Commission) said that the delegations of Bulgaria, Cuba, Cyprus, Germany, the United Kingdom of Great

Britain and Northern Ireland and the United States of America and the observers for Greece, Latvia, Malta and Panama had become sponsors of the draft resolution.

92. Draft resolution E/CN.4/1994/L.52 was adopted.

Draft resolution on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers (E/CN.4/1994/L.53/Rev.1)

93. Mr. VAN CRAEN (Belgium), introducing the draft resolution on behalf of its sponsors, said that it was the culmination of a decade-long process of reflection and deliberation in both the Sub-Commission and the Commission. Improving the quality of the rule of law was a prerequisite for an independent judiciary. The mechanisms proposed in the draft resolution would contribute to that end. He hoped that, in the spirit of consensus which had prevailed at Vienna, the draft resolution would be adopted without a vote.

94. Mr. LEBAKINE (Acting Secretary of the Commission) said that the delegations of Angola, Australia, Austria, Cameroon, Chile, the Republic of Korea and Uruguay and the observers for the Czech Republic, Denmark, Ireland, Jordan, Luxembourg, Madagascar, Slovakia and Sweden had become sponsors of the draft resolution.

95. Mr. KHOURY (Syrian Arab Republic) said that his delegation would have preferred a more balanced text. The draft resolution seemed to stress civil and political rights over economic, social and cultural rights.

96. Mr. CHAKRAVARTI (India) requested a spelling correction in the sixth preambular paragraph. The name there should read Mr. "Singhvi". His delegation wished to become a sponsor of the draft resolution.

97. Mr. LEBAKINE (Acting Secretary of the Commission), speaking on the administrative and programme-budget implications of the resolution, said that the resources required to implement operative paragraphs 2 and 3 were estimated at US$20,000 for 1994. A statement on the administrative and programme-budget implications of the resolution would be submitted to the Economic and Social Council at its forthcoming session in the context of the Council's review of the report of the Commission on Human Rights on its fiftieth session.

98. Draft resolution E/CN.4/1994/L.53/Rev.1, as orally corrected, was adopted.

Draft resolution on staff members of the United Nations and of the specialized agencies in detention (E/CN.4/1994/L.42)

99. Mr. PRACANA (Observer for Portugal), introducing the draft resolution on behalf of its sponsors, said that it was similar to resolution 1993/39, adopted by consensus at the Commission's previous session. However, in the light of the deliberations of the General Assembly at its forty-eighth session concerning the drafting of a convention on the question, some changes had been made.

100. In the second line of the fourth preambular paragraph, the words "sending missions in difficult conditions to" should be inserted before the words "various parts of the world", the word "in" being deleted. In the same paragraph, the phrase "particularly in peace-keeping missions and humanitarian operations in difficult conditions", in the second and third lines, should be deleted, and the phrase "it is imperative that its staff members", in the third and fourth lines, should be followed by the words "and other personnel acting under its authority".

101. Mr. LEBAKINE (Acting Secretary of the Commission) said that the delegations of Canada and Guinea-Bissau and the observers for Greece, Latvia, Luxembourg, Norway and Turkey had become sponsors of the draft resolution.

102. Draft resolution E/CN.4/1994/L.42, as orally revised, was adopted.

Draft resolution on the question of human rights and states of emergency (E/CN.4/1994/2, chapter I, section A, draft resolution II)

103. Mr. LEBAKINE (Acting Secretary of the Commission) said that the resolution was considered to be within the scope of perennial activities. Resources would, therefore, be provided from within existing provisions for the Economic and Social Council mandates under section 21 (Human Rights) of the approved programme budget for the biennium 1994-1995.

104. Draft resolution II was adopted.

Draft resolution on the question of the impunity of perpetrators of violations of human rights (E/CN.4/1994/2, chapter I, section A, draft resolution V)

105. Mr. LEBAKINE (Acting Secretary of the Commission) said that the resolution was considered to be within the scope of perennial activities. Resources would, therefore, be provided from within existing provisions for the Economic and Social Council mandates under section 21 (Human Rights) of the approved programme budget for the biennium 1994-1995.

106. Draft resolution V was adopted.

107. The CHAIRMAN said that draft resolution VI on the independence of the judiciary, particularly with regard to judges and lawyers, as well as court officers, recommended by the Sub-Commission, had been superseded by the adoption of draft resolution E/CN.4/1994/L.53/Rev.1. Draft decision 3 on the right to a fair trial, recommended by the Sub-Commission, had been superseded by the adoption of draft resolution E/CN.4/1994/L.51. Draft decision 4 on the recognition of gross and large-scale violations of human rights as an international crime and draft decision 13 on the question of the privatization of prisons, recommended by the Sub-Commission, had been superseded by the adoption of draft resolution E/CN.4/1994/L.33.

108. Mr. CROOK (United States of America) said that his delegation had joined the consensus on draft resolution E/CN.4/1994/L.48 without prejudice to its position that the responsibilities of the Commission on Human Rights and the Commission on Crime Prevention and Criminal Justice should be more clearly delineated in order to avoid duplication. It had joined the consensus on

draft resolution E/CN.4/1994/SR.31, but wished to point out that the sixth preambular paragraph departed from the language of the major instruments adopted at the World Conference on Human Rights. In the event of any uncertainty, the Vienna texts should prevail.

109. Ms. RAMLI (Malaysia) said that her delegation had joined the consensus on draft resolution E/CN.4/1994/L.46, despite its reservations concerning the last preambular paragraph and operative paragraph 6. It supported the right of freedom of opinion and expression and the Malaysian Constitution provided for the enjoyment of fundamental freedoms, including individual rights and freedom of speech, which were essential to a democratic society. It was concerned, however, about abuse of the right to freedom of opinion and expression.

110. It welcomed reports on detention, discrimination, threats, acts of violence and harassment against professionals, in the field of information, as mentioned in the paragraphs she had referred to, since such reports brought those individuals' plight to the attention of the international community. It also appreciated the important role that professionals in the field of information had to play. The right to freedom of speech, however, was not a licence to tell lies. Reports produced on the question should be fair and truthful but, as many members of the Commission would agree, that was often not the case.

The meeting rose at 1 p.m.